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| 09/735,930 | 12/14/2000 | Naomi Noda | WATK:205 | 5806 |

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CHARLES A. WENDEL
STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON,, DC 20036

| EXAMINER | |
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| HENDRICKSON, STUART L | |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application Number: 09/735,930
Filing Date: December 14, 2000
Appellant(s): NODA ET AL.



Roger Parkhurst
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 6/25/07 appealing from the Office action mailed 11/17/06.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

| | | |
|---|---|---|
| 5,922,295 | Chatta et al. | 7-1999 |

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 12, 14, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chatta et al. 5922295.

Chatta teaches in column 2, 4 and ex. 1 a carrier which can be cordierite (component 1), coated by alumina (component 2b). The alumina is impregnated with a Pt catalyst (component 2c) and a compound containing P and W (component 3). The reference differs in that it does not contemplate using alkali metal, but teaches this as an option- see column 1-2. Using the promoter metal- while acknowledging the possible detriments thereof- is an obvious expedient as a tradeoff between performance and expense. Further, when the feedstream does not contain S, it is an obvious expedient to use alkali metal because there will be enhancement without the poisoning.

**(10) Response to Argument**

Chatta teaches a honeycomb in col. 4 line 28 and ex. 1. The claims are to a catalyst, so arguments concerning the method are not persuasive. In any event, refined gasoline contains so little sulfur, that the small amount of poisoning is offset by greater NOx removal and thus an obvious expedient to add alkali. Not adding it gives no benefit, so even the 'worst case scenario' of adding it, getting a temporary benefit but later poisoning and losing the benefit is no worse,

particularly as alkali metals are much less expensive than platinum or tungsto-phosphates. The reference does not 'teach away' from alkali metals; it has found a way to make them unnecessary, which is not the same thing. In other words, using alkali metal promoter in the system of Chatta et al. is an obvious expedient because it is cheap and effective, with little downside, only if the stream being treated turns out to have a high sulfur content. These are prudent and routine economic considerations to one of ordinary skill in the art; see KSR International v. Teleflex Inc., 82 USPQ2d 1385.

The argument that the effect of the alkali metal is not recognized by Chatta is not persuasive, since the claims are to a catalyst and the reference teaches the same elements; Chatta puts a layer of alumina on the cordierite and thus protects it- see example 1. Thus the effect will be the same.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

STUART L. HENDRICKSON
PATENT EXAMINER

Conferees:

Stanley Silverman

Kathryn Gorgos
Appeal Conferee